

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0571P
Sales and Use Tax
Period Ending February 28, 1998

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, in a letter faxed on September 18, 1998 and a telephone conversation on November 16, 1998 protested the penalty assessed for the late filing of ST-103 for February 1998 because it historically has always filed its Indiana returns and tax payments in a timely manner with the exception of one in 1994.

I. **Tax Administration** -Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty for failure to timely remit sales and use tax due for the period ending February 28, 1998.

Taxpayer's argument states that historically it has always filed its Indiana returns and tax payments in a timely manner and that its account with the Department is and continues to be current without delinquencies. Further it recently had a sales tax audit that was flawless and they are not lax about its responsibility to timely and correctly remit tax due. Taxpayer feels that one business day for delinquency is an isolated incident and does not warrant a \$6,459.03 fine.

The Legislature has imposed penalty and interest charges to encourage compliance with the tax laws. As provided by statute, a postmark is used by the Revenue Department in determining whether a tax payment is timely. Adherence to the postmark date as evidence of a timely filed return is consistent with statute and prevents lax attitudes toward filing dates.

A review of the taxpayer's return indicates it is dated March 18, 1998 but was not mailed until March 23, 1998. A taxpayer has twenty days in which to assure that a payment is timely. In addition, the taxpayer has not demonstrated reasonable cause for the late mailing; therefore, the negligence penalty may not be waived.

FINDING

Taxpayer's protest is denied.